

### **Response**

#### **Claim Rejections**

The Examiner stated that the proposed amendment filed after final rejection, but prior to the date of filing a brief, will not be entered because they raise new issues that would require further consideration and/or search.

The Examiner also stated that the request for reconsideration has been considered but does not place the application in condition for allowance because the proposed amendment raises new issues, the Applicant has not responded to the rejection of claim 174, and the current amendment does not overcome the rejection of claim 172.

#### **Remarks**

Although the Applicant believes the previous limitations are supported by the instant invention, Applicant has canceled claim 174 without prejudice and has amended claim 172 purely to expedite the prosecution of the instant invention. Currently amended claim 172 includes:

establishing a communication between at least one of the users and the system for a purpose of a primary transaction for a requested service or repair,

obtaining primary transaction data with respect to the primary transaction, including an identity of the prospective customer and the purpose of the primary transaction as being a communication for one of the requested service or repair,

utilizing the identity of the prospective customer to obtain at least a second data element relating to the user,

utilizing at least in part the primary transaction data, including the purpose of the primary transaction as being a communication for one of the requested service or repair and the second data element, to determine at least a new product being currently available

at the time of the communication for prospective upsell to the prospective customer in real time with the primary transaction, wherein the new product is different than the requested service or repair, and

offering the new product to the prospective customer in lieu of the requested service or repair whereby the upsell serves to obviate the purpose for the primary transaction and the upsell is successful in providing the customer with the new product in replacement thereof.

Support for this limitation can be found at least in the following paragraph of the instant invention:

“As shown in Fig. 4, a user interacts with the system via contact block 140 such as by having a primary transaction comprising an Internet order transaction being entered or effectuated by a user at a personal computer (PC) terminal. During the course of the primary transaction, processing step 142 serves to receive data at a address website and process the primary transaction. That transaction may be optionally consummated or not as suits the overall purpose of the transaction. By way of example, if the upsell serves to obviate the purpose for the primary transaction, such as when the primary transaction is for customer service or repair, and the upsell is successful in providing the customer with a new product in replacement thereof, then the primary transaction need not be consummated in the manner contemplated by the user at the point of initial contact 140. Continuing with the flow of the program, at analysis block 140, the various inputs for use by the analysis system are collected, and subsequently analyzed. In the course of this collection and analysis, various sites, such as the websites own database, 144, remote database A 150 and/or remote database B 152 may be accessed. The coupling 154 between the analysis system 144 and the website database 146, as well as the couplings 156 to

the external or other databases, 152, as well as any coupling 158 between the databases 146 (coupling to other databases not shown), 150, 152, may be implemented as known by those skilled in the art. The particular selection of interconnections between various components is left to selection of implementation, where the implementation merely needs to be consistent with the goals, objects and functionalities of this invention. Upon completion of the analysis at analysis block 144, the output of the analysis block 144 is provided to the user through action block 148. The upsell data may then be displayed on the caller's PC as an additional offer, or in lieu of the primary transaction."

Applicant does not believe the cited art describes the limitations in currently amended claim 172. As such, Applicant believes that currently amended claim 172, as well as the claims that depend from it, are in condition for allowance and respectfully request they be passed to allowance.

Respectfully submitted,

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